

Senate Bill No. 364

Passed the Senate August 30, 2008

Secretary of the Senate

Passed the Assembly August 22, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 1724.5 to the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 364, Simitian. Personal information: privacy.

Existing law requires any agency, person, or business that maintains computerized data that includes personal information that the agency, person, or business does not own to notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

This bill would require that notification to the owner or licensee of the information include, among other things, a description of the categories of personal information that were, or may have been, acquired, a toll-free or local telephone number or e-mail address that individuals may use to contact the agency, person, or business, and the telephone numbers and addresses of the major credit reporting agencies. If the owner or licensee of the information is the issuer of the credit or debit card or the payment device, or maintains the account from which the payment device orders payment, or is an agency required to give notice of a security breach, as specified, the bill would require the owner or licensee to disclose the same information to the California resident in plain language, as specified.

This bill would become operative only if AB 1656 of the 2007–08 Regular Session is enacted and takes effect on or before January 1, 2009.

The people of the State of California do enact as follows:

SECTION 1. Section 1724.5 is added to the Civil Code, to read:

1724.5. (a) Any person, business, or agency subject to Section 1724.4 that is required to give notice of a breach of the security of the system pursuant to subdivision (b) of Section 1798.29 or

subdivision (b) of Section 1798.82 shall include in that notification to the owner or licensee of the information, in plain language, all of the following information if available at the time the notice is provided:

- (1) The date of the notice.
 - (2) The name of the agency, person, or business that maintained the computerized data at the time of the breach.
 - (3) The date, estimated date, or date range within which the breach occurred, if that information is possible to determine at the time the notice is provided.
 - (4) A description of the categories of personal information that was, or is reasonably believed to have been, acquired by an unauthorized person.
 - (5) A toll-free telephone number for the agency, person, or business subject to the breach of the security of the system of that agency, person, or business or, if the primary method used by that agency, person, or business to communicate with the individuals whose information is the subject of the breach is by electronic means, an e-mail address that the individuals may use to contact the agency, person, or business so that the individuals may learn what types of personal information that agency, person, or business maintained about the individuals were subject to the security breach. If the agency, person, or business that experienced the breach does not have a toll-free telephone number, a local telephone number may be provided to the owner or licensee of the information to contact the agency, person, or business.
 - (6) The toll-free telephone numbers and addresses for the major credit reporting agencies.
- (b) The notification required by subdivisions (a) and (c) may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by subdivisions (a) and (c) shall be made after the law enforcement agency determines that it will not compromise the investigation.
- (c) If the owner or licensee of the information is the issuer of the credit or debit card or the payment device, or maintains the account from which the payment device orders payment, or is an agency required to give notice of a breach of the security of the system pursuant to subdivision (a) of Section 1798.29, the owner or licensee shall disclose to the California resident in any

notification provided pursuant to subdivision (a) of Section 1798.29 or subdivision (a) of Section 1798.82, in plain language, all information described in paragraphs (1) to (6), inclusive, of subdivision (a) of this section that is available at the time that notification is made, except however, with respect to paragraph (5), an e-mail address may be provided in lieu of a toll-free or local telephone number to those individuals with whom the primary method used by that agency, person, or business to communicate is by electronic means.

SEC. 2. This act shall become operative only if Assembly Bill 1656 of the 2007–08 Regular Session is enacted and takes effect on or before January 1, 2009.

Approved _____, 2008

Governor